## IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS LUBBOCK DIVISION

STATE OF TEXAS AND TEXAS DEPARTMENT OF TRANSPORTATION Plaintiffs, v. U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, Civil Action No. 5:23-cv-00304-H PETE BUTTIGIEG, in his official capacity as SECRETARY OF TRANSPORTATION, and SHAILEN BHATT, in his official capacity as ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION, Defendants.

## TEXAS'S MOTION FOR SUMMARY JUDGMENT

Plaintiffs the State of Texas (State) and the Texas Department of Transportation (TxDOT) (together, Texas), pursuant to Federal Rule of Civil Procedure 56(a) and Local Rule 56, respectfully move this Court for summary judgment on Claims I, II, and III in their Original Complaint and Petition for Review. Dkt. No. 1. These claims challenge the legality of the final administrative rule entitled *National Performance Management Measures; Assessing Performance of the National Highway System, Greenhouse Gas Emissions Measure* (the Final Rule). There are no genuine issues of material fact and Texas

is entitled to judgment as a matter of law. Each of the matters required by Local Civil rule 56.3(a) are set forth in the Texas's Brief in Support of Summary Judgment.

In support of this Motion, Texas relies upon the following:

- 1. Defendants' Administrative Record, Dkt. No. 15;
- 2. Texas's Original Complaint and Petition for Review, Dkt. No. 1; and,
- 3. All further evidence necessary to support this Motion.

Texas respectfully requests the following relief against the Defendants, their agents, servants, employees, attorneys, and all persons and entities in active concert or participation with them, directly or indirectly:

- 1. A declaratory judgment that the Final Rule violates the Administrative Procedure Act (APA) because it is in excess of the Defendants' statutory jurisdiction, authority, or limitations;
- 2. A declaratory judgment that the Final Rule violates the APA is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- 3. A declaratory judgment that the Final Rule violates the Spending Clause of the United States Constitution and is thus unlawful under the APA; and,
- 4. An order vacating the Final Rule.

Wherefore, Texas respectfully requests that judgment be entered in its favor and against Defendants.

Dated: February 9, 2024 Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I certify that on February 9, 2024, a copy of the foregoing document was electronically filed on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on all attorneys of record in this case.

/s/ Logan Harrell
LOGAN HARRELL
Assistant Attorney General